

REMARKS

Prior to this response, claims 1-12, 18-27 and 44-51 are pending. Claims 1, 7, 8, 18, 24 and 25 are canceled herein. New claims 55-67 are added. Support for the new claims is found in the claims as filed and throughout the specification, for example at p. 21, lines 9 and 24 and at p. 23, line 2. Claims 2, 3, 4, 5, 9, 10, 11, 19, 20, 21, 22, 26, 27 and 44-47 are amended to depend from the newly added claims. Claims 6, 12, 23 and 48-51 are amended to correct antecedent basis. No new matter is introduced by way of this amendment.

Rejections based under 35 U.S.C § 103(a)

Claims 1-6, 8-10, 18-23, 25-27 and 44-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walt et al. (U.S. Patent No. 6,327,410 B1, filed September 11, 1998) in view of Brenner (U.S. Patent No. 5,863,722, filed June 7, 1995).

The Examiner states that it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to apply the microspheres not having an optical signature as taught by Brenner et al. and the non-optical encoding taught by Walt et al. to the microsphere compositions of Walt et al. and to provide at least one subpopulation of microsphere without an optical signature thereby eliminating the need to provide optical signatures on all the microspheres for the obvious benefits of simplicity. Applicants respectfully traverse.

Initially, Applicants note that claim 1 and 18 have been canceled. New claims 55-67 are submitted. Claims 2-6, 9-10, 19-23, 25-27 and 44-51 now depend from the newly submitted claims. Claims 8 and 25 also are canceled. Because claims 1, 8, 18 and 25 are canceled, the rejection based on these claims is moot. Applicants submit that the claims as amended are not

obvious in light of the cited art. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection.

Claims 7 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Walt et al. (U.S. Patent No. 6,327,410, filed September 11, 1998) in view of Brenner (U.S. Patent No. 5,863,722, filed June 7, 1995) as applied to claims 1 and 18 above and further in view of Augenlicht (U.S. Patent No. 4,981,783).

Applicants note that the claims have been canceled. Thus, the rejection is moot.

Claim 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walt et al. (U.S. Patent No. 6,327,410, filed September 11, 1998) in view of Brenner (U.S. Patent No. 5,863,722, filed June 7, 1995) as applied to claim 1 above and further in view of Chee et al. (U.S. Patent No. 5,795,716, issued August 18, 1998).

Again, Applicants note that claims 11-12, which previously depended from claim 1, now depend from newly submitted claims 55-67. Applicants submit, therefore, that claims 11-12 are not obvious in light of the cited art. Accordingly, Applicants respectfully request the withdrawal of the rejection.

### **CONCLUSION**

Applicants respectfully submit that the claims are now in condition for allowance and early notification to that effect is respectfully requested. If the Examiner feels there are further

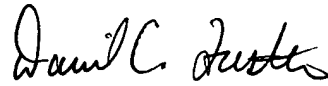
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unresolved issues, the Examiner is respectfully requested to phone the undersigned at (415) 781-1989.

Respectfully submitted,

DORSEY & WHITNEY, LLP

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David C. Foster, Reg. No. 44,685  
for Robin M. Silva, Reg. No. 38,304  
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Four Embarcadero Center  
Suite 3400  
San Francisco, CA 94111-4187  
Telephone: (415) 781-1989

Customer No. 32-940

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